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3
4 UNITED STATES DISTRICT COURT

5 DISTRICT OF NEVADA

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7 JENNYLYNN ADAMWICZ,

Case No. 3:22-cv-00033-LRH-CSD

8 Plaintiff,

ORDER

9 v.

10 KEOLIS TRANSIT SERVICES, LLC, a
foreign corporation, et al.,

11 Defendants.

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13 Plaintiff Jennylynn Adamwicz initiated this action in the Second Judicial District Court for
14 Washoe County, Nevada on August 20, 2021. On January 21, 2022, Defendant Keolis Transit
15 Services, LLC filed a notice of removal to this Court (ECF No. 1), asserting diversity jurisdiction.
16 The Court found that the parties were diverse in citizenship but ordered additional briefing to allow
17 Defendant to present summary judgment type evidence to satisfy the amount in controversy
18 requirement. ECF No. 8 at 2, 4. Having reviewed the parties' responses, the Court finds that the
19 amount in controversy requirement is not satisfied.

20 To determine if the amount in controversy requirement is met, the Court first considers
21 whether it is facially apparent from the plaintiff's state court complaint that the amount in
22 controversy exceeds \$75,000 exclusive of interest and costs. *Singer v. State Farm Mut. Auto. Ins.*
23 Co., 116 F.3d 373, 377 (9th Cir. 1997). If it is not facially apparent from the complaint, the
24 defendant must prove by the preponderance of the evidence that the amount in controversy
25 requirement is met. *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996). The
26 evidence presented must indicate that the amount of damages plaintiff seeks will, more likely than
27 not, satisfy the amount in controversy requirement. See *McCaa v. Mass. Mut. Life Ins. Co.*, 330 F.
28 Supp. 2d 1143, 1149 (D. Nev. 2004).

1 The Court previously found that Plaintiff's state court complaint did not make it facially
2 apparent that the amount in controversy exceeds \$75,000 exclusive of interest and costs. ECF No.
3 8 at 4. Plaintiff alleged \$30,543.65 in medical expenses and unspecified damages for "her past and
4 future pain and suffering, loss of household services, and loss of enjoyment of life." ECF No. 1-6
5 at 3. The Court reasoned that, although Plaintiff seeks general and special damages, the possibility
6 of a damages award in excess of \$75,000 is not sufficient to prove that the amount in controversy
7 requirement has been satisfied. ECF No. 8 at 4. Rather, a reasonable inference from Plaintiff's
8 complaint and petition for exemption from arbitration is that the amount in controversy is less than
9 the jurisdictional threshold. *Id.* Finding that the allegations in the complaint and petition did not
10 satisfy the amount in controversy requirement, the Court provided Defendant with an opportunity
11 to present summary judgment type evidence. *Id.*

12 However, Defendant continues to assert that Plaintiff's allegations in the complaint and
13 petition are enough to satisfy the requirement. Though Defendant concedes that it is not "facially
14 apparent" that the amount in controversy requirement is satisfied, the only evidence it relies upon
15 is Plaintiff's allegations from the complaint and the petition for exemption from arbitration. As the
16 Court previously found, this evidence alone does not demonstrate that the amount in controversy
17 requirement is met and Defendant's citations to nonbinding precedent do not persuade the Court
18 otherwise. Defendant was offered the opportunity to present summary judgment type evidence that
19 shows the amount of damages Plaintiff seeks will, more likely than not, satisfy the requirement.
20 Having chosen not to present any evidence, the jurisdictional threshold has clearly not been proven
21 to the Court. The Court finds that Defendant did not prove by a preponderance of the evidence that
22 the amount in controversy exceeds \$75,000 exclusive of interest and costs. Therefore, the Court
23 does not have jurisdiction over this case and, accordingly,

IT IS HEREBY ORDERED that the Clerk of the Court shall remand this case to the Second
Judicial District Court for Washoe County, Nevada and close the case.

26 DATED this 16th day of February, 2022.

Larky R. Hicks
LARKY R. HICKS
UNITED STATES DISTRICT JUDGE